


the filing of a Terminal Disclaimer, as it is unclear what claims will be allowed in the '172 application. Applicants respectfully submit that no response to the double patenting rejection is required at this time. Applicants submit that the provisional obviousness-type double-patenting rejection should be held in abeyance until all other issues in the application had been resolved. For example, Applicants note that there are still pending rejections under 35 U.S.C. § 102 and § 112 in the present application.

Without conceding the propriety of the Notice, Applicants submit the following additional comments. Applicants submit that the claims of the '172 application are directed to methods "for the therapy and/or prophylaxis of pathologies affecting the central nervous system" (claim 1) (emphasis added). Applicants respectfully disagree with the Examiner's assertion that "the instant claims are drawn to a method of treating optic neuritis, which is a condition of the CNS (i.e., treatment of the optic nerve)" (Office Action, paragraph 13). Applicants submit that optic neuritis is an ophthalmic condition and is not a condition of the central nervous system (CNS). Rather, Applicants submit that the optic nerve is a peripheral nerve and not a part of the central nervous system. Applicants note that the central nervous system is comprised of the brain and spinal cord, while the peripheral nervous system is comprised of nerves, including the cranial nerves (of which the optic nerve, also known as cranial nerve II, is an example). Therefore, Applicants submit that the present claims are patentably distinct and not obvious in light of the '172 application. Therefore, Applicants respectfully request reconsideration and withdrawal of the obviousness-type double patenting rejection of claims 13, 15, 18, 19, 20, 21, 24-27, 30, 31, 33, 35, and 26 over the '172 application.

Applicants respectfully submit that this application is in condition for allowance and such action is earnestly solicited. If the Examiner believes that anything further is desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below to schedule a personal or telephone interview to discuss any remaining issues.

In the event that any additional fees are due with respect to this response, the additional fees may be charged to Deposit Account No. **01-2300**, referencing Attorney Docket No. **026073-00020**.

Respectfully submitted,



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